SUPREME COURT OF THE UNITED STATES.

No. 47.

JAMES MACKAY'S WIDOW AND HEIRS, APPELLANTS,

VERSUS

THE UNITED STATES.

ON APPEAL FROM THE DISTRICT COURT U. S. FOR THE MISSOURI DISTRICT.

INDEX.

	Original.	Print.
Citation	1	1
S[illegible]	2	2
P[illegible]n to the Chief Justice U. S.	3	2
A[illegible]al bond	7	3
P[illegible]tion in the district court U. S.	11	4
Ci[illegible]ation to the district attorney U. S.	13	5
Answer of do do do	14	6
Opinion of the court	15	7
Bill of exceptions	17	7
Decree of the court	22	10
Clerk's certificate	24	11

UNITED STATES OF AMERICA TO THE UNITED STATES, *greeting:*

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in August next, pursuant to an appeal filed in the Clerk's office of the district court of the United States for the district of Missouri, wherein Isabella Mackay, widow, and John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, George A. Mackay, James B. Mackay, Jane J. Mackay, and Amelia A Mackay, minors, by their mother and next friend, the said Isabella Mackay, heirs of James Mackay, deceased, are appellants, and the United States is appellee, to show cause, if any there be, why the decree rendered against the said appellants, as in the said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable John Marshall, Chief Justice of the Supreme Court of the United States, at the City of Washington, this 17th day of January, A. D. 1831.

J. MARSHALL, *Ch. Just. U. S.*

WASHINGTON CITY, *Jan. 18th*, 1831.

Served this citation on Mr. Wirt, by leaving with him a true copy and showing him the original at the same time.

THOMAS WOODWARD.

Sworn to in open court.

WM. THOS. CARROLL, *C. S. C. U. S.*

The petition of Isabella Mackay, widow of James Mackay, deceased, John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, George Anthony Mackay, James Bennet Mackay, Jane Julia, and Amelia Anne Mackay, heirs of said James Mackay, deceased, minors, by their mother and next friend, said Isabella Mackay, to the honorable the Chief Justice of the United States, respectfully showeth:

That, at the session of the district court of the United States for the district of Missouri, held at St. Louis, in February, of the year 1830, last past, a final decree was pronounced by said court in favor of the United States in the cause of the widow and heirs of James Mackay, deceased, petitioners, *vs.* the United States.

That, on the hearing of said cause, and after said decree was pronounced, it was distinctly understood and the intention was expressed by the counsel for your petitioners, that an appeal would be taken by them to the Supreme Court of the United States.

That, immediately after said decree was pronounced, the said district court adjourned, sine die, and since that time has ceased to exist, at least for the purpose of making final decisions, by virtue of that provision in the act of Congress of the 24th May, 1828, which declares that the act of the 26th May, 1824, shall be continued in force until the 26th May, 1830, and no longer.

That your petitioners, against whom the decree aforesaid was pronounced, availing themselves of that provision in the act of the 26th May, 1824, which declares that, in all cases, the party against whom the decree may be finally given, shall be entitled to an appeal within one year from the time of its rendition, to the Supreme Court of the United States, have applied to the clerk of said district court of Missouri under the act of 1824, and have obtained a transcript of the record in said cause, and have applied to the judge of said district court for a citation, to be directed to the proper officer of the United States, and have tendered the necessary appeal bond, and have prayed that said judge should allow the appeal, and should do such other judicial act or acts as might be necessary to enable the said petitioners to avail themselves of the right of appeal, so to them given by the act of Congress of 1824, continued by the act of 1828, aforesaid.

Your petitioners further respectfully showeth, that said judge, having taken said application into consideration, has decided that he has ceased to have any authority under the act of 1824, or under any other act of Congress continuing or amending the same, and therefore has declined allowing the appeal or issuing the citation prayed for by your petitioners.

Your petitioners showeth, that, in consequence of the above decision of the said district judge, they will be deprived of their right of appeal, unless the honorable the Supreme Court, or a judge thereof, shall interpose to relieve them.

37.

Wherefore, your petitioners respectfully pray that a citation be issued in due form, in the above cause, directed to the proper officer, requiring him to appear and show cause, in the honorable the Supreme Court of the United States at the present term thereof, why said decree should not be reversed, and that the appeal bond ready to be tendered by your petitioners may be approved of, if found sufficient, and that such other order may be made as to your honor shall seem proper in the premises, and your petitioners will ever pray, &c.

L. E. LAWLESS, *Atto. for pl'ffs.*

Appeal allowed.

J. MARSHALL, *Ch. Just. of the U. S.*

Know all men by these presents, that we, Marie P. Leduc and Luke E. Lawless, are held and firmly bound unto the United States in the full and just sum of two hundred dollars, to be paid to the said the United States' certain attorney, or assigns: to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this seventeenth day of January, in the year of our Lord one thousand eight hundred and thirty-one.

Whereas lately, at a district court of the United States for the district of Missouri, in a suit depending in said court, wherein James Mackay's heirs were petitioners and the United States was defendant, a final decree was passed against the said Mackay's heirs, and the said Mackay's heirs having entered an appeal from the said decree of the said district court to the Supreme Court of the United States, and obtained a citation directed to the said the United States citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of August next:

Now the condition of the above obligation is such, that if the said James Mackay's heirs shall prosecute their appeal to effect, and answer all damages and costs if they fail to make their plea good, then the above obligation to be void, else to remain in full force and virtue.

M. P. LEDUC, [L. s.]
L. E. LAWLESS, [L. s.]

Sealed and delivered in presence of
WM. THOS. CARROLL.

Approved by

J. MARSHALL, *Ch. Just. of the U. S.*

Know all men by these presents, that I, Barry, of the county of St. Louis, am held and firmly bound unto the United States in the sum of one hundred dollars, to the payment of which I bind myself, my heirs, executors, and administrators.

The condition of the above obligation is such, that, whereas Isabella Mackay, widow of James Mackay, deceased, together with John Zenon Mackay, and others, heirs of said James Mackay, have appealed from a decree of the United States' court for the Missouri district, pronounced against them on their petition for the confirmation of a certain grant of eight hundred arpents of land, situated in the county of St. Louis, State of Missouri, alleged to have been made by the Spanish Government of Upper Louisiana to said James Mackay, deceased, on the 14th September, 1799: Now if

the said Isabella Mackay, John Zenon Mackay, and the other appellants, shall pay, or cause to be paid, all costs which shall accrue on the prosecution of said appeal for which they shall become bound by the order or decree of the Supreme Court of the United States, then this obligation to be void, otherwise to be and remain in full force.

Witness my hand and seal, at St. Louis, this eleventh day of November, 1830.

JAMES BARRY, [L. S.]

Signed in the presence of

JO. GAMBLE,
Clerk of the late court of the U. S. for the Mis. dist. &c.

UNITED STATES OF AMERICA, MISSOURI DISTRICT, set.

Be it remembered that, heretofore, to wit, on the twenty-fifth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Isabella Mackay, widow, and the children and heirs of James Mackay, deceased, by their solicitors, filed in the office of the clerk of the United States' court for the Missouri district, under authority of an act of Congress, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and the Territory of Missouri to institute proceedings to try the validity of their claims," their petition praying for the confirmation of eight hundred arpents of land, as the same is described in said petition, which said petition is in the words and figures following, to wit:

To the Judge of the district court of the United States for the State and district of Missouri:

Respectfully show Isabella Mackay, widow of James Mackay, deceased, John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, George Anthony Mackay, James Bennet Mackay, Jane Julia, and Amelia Anne Mackay, minors, by their mother and next friend, said Isabella Mackay: That on the thirteenth day of September, one thousand seven hundred and ninety-nine, James Mackay, deceased, late of St. Louis, presented his petition to Don Carlos D. Delassus, the Lieutenant Governor of the province of Upper Louisiana, by which petition the said James Mackay submitted to said Lieutenant Governor that he, said James Mackay, then commandant of the post of St. Andre, on the Missouri, was established at the village of St. Andre, aforesaid, but that having the intention to establish an habitation in the neighborhood of Mr. Papin, between St. Louis and the river des Peres, he, said Mackay, prayed the said Lieutenant Governor to grant to said James Mackay, and his heirs, eight hundred arpents of land in superficies, bounded on the south by the lands of Mr. Papin, and of Madame Chouteau; on the east by the common field lands of Kercereau, l'Anglois, Taillon, and others, at the Grand Marais; on the west by James M'Daniel, and on the north and north-east by the land of Mr. Chouteau, and the domain of the king. Your petitioners further show, that, on the fourteenth day of September, aforesaid, in the year aforesaid, 1799, the said Lieutenant Governor did, in compliance with the above stated petition, make his order or decree, whereby he ordered the surveyor of said province to put said James Mackay into possession of the land solicited and demanded in said petition, and that said surveyor should survey same, and make a plat of certificate and survey thereof, and deliver same to the petitioner, James Mackay, in order that said petitioner

38.

might thereupon obtain the formal title from the Intendant General, all which will more fully appear by said petition and decree, now ready to be produced to this court. Your petitioners show that said James Mackay did, by virtue of said decree, take possession of said tract and exercise acts of ownership over the same from the year one thousand eight hundred, or sooner, that is to say, immediately subsequent to said decree, until the death of said James Mackay, which took place in the year 1822; that said James Mackay was, from the year 1799 during the time that the Spanish Government continued, the undisturbed and acknowledged owner of said tract, and continued so until the year 1817, when certain persons, taking advantage of the non confirmation of said tract, wrongfully located thereon a New Madrid certificate, and set up their claim under pretext of said location to a part of said tract; that neither the said concession nor claim thereon have been presented to or filed with the recorder or board of commissioners heretofore created in Upper Louisiana for the adjudication of land claims, the said concession having been sent to New Orleans by said James Mackay, and not returned in time to enable him to file the same. Your petitioner, Isabella Mackay, as widow, and your other petitioners, as heirs, and children of said James Mackay, pray that the title of said James Mackay may be inquired into as above set out, and that, inasmuch as same would have been confirmed by the Government under which it originated if the said province of Upper Louisiana had not been transferred to the United States, your petitioners pray that the title of said James Mackay, deceased, and his legal representatives, be confirmed to said tract of eight hundred arpents, as same are specially located and described in said petition and decree, and your petitioners will pray.

G. F. STROTHER, } *Solic's for pet.*
L. E. LAWLESS, }

And thereupon the clerk of the said court issued a citation to the attorney of the United States for the Missouri district, in the words following, to wit:

MISSOURI DISTRICT, set.—*The President of the United States of America to the Marshal of said district, greeting:*

You are hereby commanded to notify and cite the attorney of the United States for the Missouri district, that he be and appear before the court of the United States for the Missouri district, on the fourth Monday of June next, then and there to answer the petition of Isabella Mackay, widow of James Mackay, deceased, John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, George Anthony Mackay, James Bennet Mackay, Jane Julia, and Amelia Anne Mackay, minors, by their next friend, said Isabella Mackay, who pray the confirmation of eight hundred arpents of land, and make defence, if any he has, or knows of any thing to say why the same should not be confirmed accordingly; hereof fail not, and have you then there this writ.

Witness the honorable James H. Peck, esquire, judge of the United States' court for the Missouri district, the twenty-fifth day of May, 1829.

Issued at office in St. Louis, under my private seal, there being no public seal provided, the day and year last aforesaid.

ISAAC BARTON, *Clerk.*

Which said citation was duly returned by the said marshal, with his return thereon endorsed, as follows, to wit:

Executed this citation on Beverly Allen, the United States' district attorney for the Missouri district, June 15th, 1829, at St. Louis, and gave him a copy of the petition filed in this behalf.

JOHN SIMONDS, Jr., *Marshal,*
By D E. Cugler, Dep.

And afterwards, to wit, at the June session of said court, in the year eighteen hundred and twenty-nine, comes the attorney for the United States and files his answer to said petition; and thereupon, on application of the petitioners, by their solicitor, and with the consent of the said attorney for the United States, this cause is continued.

Which answer, as filed by the said attorney to the aforesaid petition, is in the words and figures following, to wit:

The answer of Beverly Allen, attorney of the United States, to the petition of the heirs of James Mackay, praying the confirmation of a tract of land of 800 arpents.

This respondent, for answer, on behalf of the United States of America, reserving to himself and to the said United States, now, and at all times hereafter, all manner of advantage of exception to the manifold errors, imperfections, and uncertainties, in the said petition contained, for answer thereto, or to so much thereof as this respondent deems it necessary and material for him to answer, answering, says, that he is wholly uninformed and ignorant of all and every the matters and things in said petition contained, and therefore he does not admit the same, or any of them, to be true, but prays the court that the said petitioners may be held and required to prove and substantiate the material allegations in said petition contained, and all such other matters and things, the existence whereof may be deemed essential and necessary for the confirmation of the said claim; and the respondent, &c.

B. ALLEN, *Att. for the U. S. D. for Mis.*

This cause was continued until the January session of said court, in the year eighteen hundred and thirty, when the following proceedings were had:

FRIDAY, *January 15th,* 1830.

ISABELLA MACKAY, widow, and the heirs of JAMES MACKAY, deceased,
vs.
UNITED STATES.

Now, at this day, come as well the said petitioners, by their solicitors, as the attorney for the United States, and this cause coming on to be heard upon the petition, answer, and proofs. The petition of Isabella Mackay, widow, and the heirs as aforesaid, in substance, states, that on the thirteenth day of September, in the year seventeen hundred and ninety-nine, James Mackay, deceased, late of St. Louis, presented his petition to Don Carlos Dehault Delassus, then Lieutenant Governor of Upper Louisiana, by which petition the said James Mackay submitted to said Lieutenant Governor that he, said Mackay, then commandant of the post of St. Andre, was established at the village of St. Andre; that having the intention to establish an habitation in the neighborhood of Mr. Papin, between St. Louis and the

river des Peres, said Mackay prayed said Lieutenant Governor to grant to him and his heirs a tract of eight hundred arpents of land, French superficial measure, bounded on the south by the lands of Mr. Papin and of Madame Chouteau, on the east by the common field lands of Kercereau, l'Anglois, Taillon, and others, at the Grand Marais, on the west by James M'Daniel, and on the north and northeast by land of Mr. Chouteau, and the domain of the king; that on the fourteenth day of September, in the year aforesaid, the said Lieutenant Governor made his order or decree, whereby he ordered the surveyor of said province to put the said Mackay into possession of the land solicited and demanded in said petition; that said surveyor should survey the same, and make a plat and certificate of survey thereof, and deliver the same to said petitioner; that said Mackay, immediately after said decree, took possession of said tract and exercised ownership over the same until the death of said Mackay, in the year eighteen hundred and twenty-two; that said Mackay was, from the year seventeen hundred and ninety-nine during the continuance of the Spanish Government, the undisturbed and acknowledged owner of the said tract, and continued so until the year eighteen hundred and seventeen, when certain persons located thereon a New Madrid certificate, and under said location set up their claim to a part of said tract. The petition further states, that neither the said concession nor claim thereon has been presented to or filed with the recorder or board of commissioners created for the adjudication of land titles in Upper Louisiana; that said claim was sent by said Mackay to New Orleans, and was not returned in time to enable him to file the same. The petition then prays that said title may be inquired into and confirmed, as located and described in said petition and decree.

The attorney for the United States, for answer, says, that he is wholly ignorant and uninformed of the matters and things in said petition contained; that he neither admits nor denies them; but prays that said petitioners may be held and required to prove the material allegations in said petition contained, and all such other matters and things as may be deemed essential to the confirmation of said claim.

And the evidence in this cause being that which is contained in a bill of exceptions, taken by the solicitors for the said petitioners, and ordered to be made a part of the record in this cause. Which said bill of exceptions, as signed and sealed by the court, and ordered to be made a part of the record, is in the words and figures following, to wit:

Be it remembered, that, at the trial of this cause, the petitioners, by their solicitors, produced to the court an alleged concession from Charles Dehault Delassus, then Lieutenant Governor of Upper Louisiana, of the date of the fourteenth day of September, seventeen hundred and ninety-nine, for the premises claimed in the petition of the said James Mackay, deceased, upon which the said alleged concession appeared to have been made of the thirteenth day of the same month, which said petition, as translated to the court by Luke E. Lawless, a witness sworn in this cause, is as follows, to wit:

To Charles Dehault Delassus, Lieutenant Colonel, attached to the fixed regiment of Louisiana, and commander in chief of Upper Louisiana:

James Mackay, commandant of St. Andre, of Missouri, being established at the village of the said St. Andre, on the bank of the Missouri, but having the intention of establishing a habitation in the neighborhood of

Mr. Papin, between St. Louis and the river des Peres, he prays you to grant him, in entire property, 800 arpents of land in superficies, bounded on the south by land of Mr. Papin and Madame (widow) Chouteau; on the east by the lands of the common field of Kiercereau, l'Anglois, Taillon, and others, at the Great Marais; on the west by James M'Daniel; and on the north and northeast by the land of Mr. Chouteau, and the domain of the king; knowing the zeal and fidelity of the suppliant in the service, he hopes this grace of your justice. St. Louis, 13th September, 1799.

JAMES MACKAY.

And which said concession is also translated, by the said witness to the court, in the following words, to wit:

ST. LOUIS OF ILLINOIS, 14*th Sept.*, 1799.

The surveyor, Don Antonio Soulard, will put the interested party in possession of the tract of land which he solicits, by this memorial, which having done, he shall form a plat, delivering it to this party, and a certificate, in order that it may serve to obtain the concession and title in form from the senior Intendant General of these provinces, to whom, by order of His Majesty, belongs particularly the distributing and granting of every class of vacant lands.

CHARLES DEHAULT DELASSUS.

Which said petition was in the French language, and the said concession in the Spanish language; both being upon the same half sheet of paper. Be it further remembered, that the said plaintiffs, by their said solicitor, Luke E. Lawless, introduced Mary P. Leduc as a witness, who proved that he was the private Secretary of Lieutenant Governor Delassus at the time at which the said concession bears date, and that he was well acquainted with the handwriting of the said Lieutenant Governor, and knows the signature of the said Charles Dehault Delassus, as affixed to the said concession, to be his genuine signature; that the handwriting in the said concession is that of Antoine Soulard, who was the surveyor of the province of Upper Louisiana at the date of the said concession; that the handwriting of the said petition was that of the said James Mackay, with the handwriting of both which last mentioned persons the said witness was also well acquainted; said witness further stated, in answer to interrogatories put by the court, that the said land in the said petition and concession mentioned, was situated immediately south of the tract claimed by Auguste Chouteau, deceased, the title to which had been adjudicated against by this court during the present term, and that no other lands intervened between the lands of Watkins, which bounded the said last mentioned tract on the north, and the said lands conceded to the said James by the said concession, but the said tract of the said Auguste, and that the lands of the said James, as conceded, was bounded on the east by the common fields, in like manner as was the tract of the said Auguste; and that the said concession of the said James was bounded on the south and west as stated in the petition. And the court having called for the petition and concession in the case of the said Auguste, which had been determined, as mentioned, and upon which the claim in that case was founded, and it appearing by the said petition and concession that they bore date of the 5th of January, 1800; and that the survey executed in pursuance of said concession, as would appear by the report of the surveyor, the said Antoine Soulard, was made on the fifth day of March, eighteen hun-

dred and one, and the said Auguste put in possession of the said tract at the time of the said survey, which report of the said surveyor, as translated in evidence, is in the words and figures following, to wit:

I, Anthony Soulard, principal deputy surveyor of Upper Louisiana, certify that, on the 5th day of March, present year, (in virtue of the annexed decree of the Lieutenant Governor and Lieutenant Colonel of the royal armies, Mr. Charles Dehault Delassus, dated January 5th, of last year,) I went on the land of Auguste Chouteau to survey it, according to his request, to contain 1,281 arpents in superficies, which admeasurements were made in presence of the proprietor and of the adjacent neighbors, with the perch of Paris, having 18 feet in length, according to the custom adopted in this province of Louisiana, and without regard to the variation of the compass, which is 7° 30' E. as appears in the preceding diagram, which land is situated at about 4 miles N. 56½ W. of this town, and bounded as follows: north, in part, by the lands of John Watkins and Philip Reviere, and vacant lands of the royal domain; south and west, by said vacant lands; and east, by lands of sundry inhabitants of this town of St. Louis.

In testimony whereof, I give these presents, with the foregoing figurative plan, in which are indicated the dimensions, and metes and bounds, both natural and artificial, on the periphery of said land. St. Louis of Illinois, April 10, 1801.

ANTONIO SOULARD, *Agn. Par.*

And it appearing, as well on the diagram which accompanied the report of the surveyor, the said Antoine, as by his certificate, that the southern and western boundaries of the said tract of the said Auguste, is bounded by the royal domain; and it having also been proved by the said Mary P. Leduc, in answer to interrogatories propounded by the court, that the report of the said Antoine of the said survey of the said tract of the said Auguste was in the handwriting of the said Antoine, as well as the notes upon the said diagram, which are here exhibited in open court. And it also further appearing, upon an inspection of a petition which had been made by the said Auguste, and upon an inspection of a decree made by the said Lieutenant Governor, in compliance with said last mentioned petition, which last mentioned petition was of the date of the 5th of November, 1799, that a water mark of the year 1799 appeared upon the said paper, which said decree is referred to in the petition of the said Auguste, in which he solicited the concession before mentioned, and upon which the said claim decreed against as aforesaid was founded; to all which facts the court having directed the attention of the solicitors, as those from which suspicion might arise, in relation to the genuineness of the concession upon which the present claim is founded, inasmuch as it was of an earlier date than the concession of the claim to which it refers for its northern boundary. And thereupon the solicitors for the petitioners introduced a witness who spoke the French language, but who alleged he could not speak the English language, and prayed that the court would hear the evidence of the said witness in the French language, without offering any translation thereof, which the court declined to do; the said solicitors then introduced another witness, and requested the said last mentioned witness to interpret his questions to the previous witness, who did not speak English; which said last mentioned witness declined to interpret the questions as requested, although he was capable of interpreting them. And thereupon the said solicitors prayed the court to appoint an interpreter for the purpose of translating the testimony

of the said witness, which the court, doubting its authority to appoint any such officer, declined to do, to which opinion of the court the said solicitors excepted, and thereupon declared that they would offer no other evidence. The judge of the court presiding in the cause did not speak the French language, which the said solicitor in the cause, Luke E. Lawless, who had been sworn as a witness in the cause at his own instance for the purpose of translating the said decree and concession, spoke fluently, to the knowledge of the court, and who did not offer to take upon himself the interpretation of the said evidence of the said witness. All which is signed and sealed by the court and ordered to be made a part of the record.

JAMES H. PECK, [SEAL.]

And no other evidence being offered on behalf of either of the parties, and all and singular the premises being seen and by the court here fully understood; and for that it seems to the court that, by the royal order of Spain of the twenty-fourth of August, seventeen hundred and seventy, directed to the Governor of the province of Louisiana, and his successors in office, the instruction which had been framed by General Alexander O'Riley, of the date of the eighteenth of February of the same year, was exclusively to regulate the grant and distribution of the crown lands in Louisiana, so long as the king should not otherwise dispose. And for that the decree of the same king of the twenty-second day of October, one thousand seven hundred and ninety-eight, which transferred the power to grant, by which, under the said royal order, the said Governors had distributed the said lands, did not abrogate the said instruction of the said O'Riley, but left the same in full force, and also introduced the royal regulation of seventeen hundred and fifty-four, and the laws cited therein, as well as the eighty-first article for the establishment of the Intendants of New Spain. And for that, according to the said instruction, and also according to the regulations made by Morales, the Intendant of said province, dated the seventeenth of July, seventeen hundred and ninety-nine, the claim of the said petitioners derived through the said James Mackey, if the said concession were genuine, is invalid, both at law and in equity, and the act in virtue of which said claim is made was unauthorized by the royal regulation of seventeen hundred and fifty-four, or the laws cited therein, or by the eighty-first article, the validity of the said title and claim of the said petitioners is therefore adjudged and decreed against; and it is further ordered, adjudged, and decreed, that the said Isabella Mackay, widow of the said James Mackay, deceased, John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, and the said Isabella Mackay, the next friend of George Anthony Mackay, James Bennet Mackay, Jane Julia, and Amelia Anne Mackay, minors, pay all costs occasioned by the prosecution and defence of this suit.

SATURDAY, *January 16th*, 1830.

ISABELLA MACKAY, widow, and the heirs of JAMES MACKAY, deceased,
vs.
UNITED STATES.

After the decree pronounced in this cause, it was ordered by the court that the clerk retain, with the papers on file in this case, the concession upon which the claim is founded until its further order.

the said Ct. adj? & dec? against
the validity of the? title & claim
of the? petitioners that the?
petitioners? pay all costs occas?
by the proceedings of this Ct.

MONDAY, *January* 18*th*, 1830.

ISABELLA MACKAY, widow, and the heirs of JAMES MACKAY, deceased,
vs.
UNITED STATES.

It is ordered that Isabella Mackay, widow of James Mackay, deceased, John Zenon Mackay, Reuben S. Coleman, and Lucy Eliza, his wife, Louis Guion, and Catharine Mary, his wife, and the said Isabella Mackay, the next friend of George Anthony Mackay, James Bennet Mackay, Jane Julia, and Amelia Anne Mackay, minors, show cause why the concession under which the petitioners claim should not be impounded by the court.

FRIDAY, *February* 5*th*, 1830.

ISABELLA MACKAY, widow, and heirs of JAMES MACKAY, deceased,
vs.
UNITED STATES.

Rule to show cause why the concession in this case should not be impounded is discharged.

MISSOURI DISTRICT, sct.

I, Joseph Gamble, clerk of the late court of the United States for the Missouri district, under the authority of an act of Congress, approved the 26th May, 1824, and entitled "An act enabling the claimants to lands within the limits of the State of Missouri and Territory of Arkansas to institute proceedings to try the validity of their claims," certify that the foregoing is a full, true, and perfect transcript of the record and proceedings of said court, as the same remains of record in my office, in a cause therein determined, in which Isabella Mackay, widow, and the children and heirs of James Mackay, deceased, were petitioners for the confirmation of eight hundred arpents of land.

Given under my hand and private seal, there being no seal of court provided, at St. Louis, the first day of October, 1830.

JO. GAMBLE.